

## Message Text

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INFORM CONSULS

C O R R E C T E D COPY (OMISSION OF LINE IN SECTION 5)

E.O. 11652: N/A

TAGS: ETRD

SUBJECT: TRADE ACT: MAJOR PROVISIONS

1. WE APPRECIATE NEEDS OF POSTS FOR COPIES OF RECENTLY ENACTED TRADE ACT OF 1974 BOTH FOR THEIR OWN USE AND THAT OF HOST GOVERNMENT OFFICIALS. UNFORTUNATELY TEXT OF ACT IS STILL AT THE GOVERNMENT PRINTER AND NOT EXPECTED TO BE AVAILABLE UNTIL EARLY IN THE WEEK OF JANUARY 20. FOR THE INTERIM POSTS MAY DRAW ON THE FOLLOWING SUMMARY OF THE ACT'S MAJOR PROVISIONS.

2. NEGOTIATING AUTHORITIES - THE TRADE ACT DELEGATES THE UNCLASSIFIED

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AUTHORITY NECESSARY FOR NEGOTIATIONS ON A BROAD RANGE OF

TARIFF AND NON-TARIFF BARRIERS TO, AND OTHER DISTORTIONS OF INTERNATIONAL TRADE. THE BASIC NEGOTIATING AUTHORITIES ARE FOR FIVE YEARS (EXPIRING JANUARY 3, 1980). THEY ALLOW:

(1) ELIMINATION OF EXISTING DUTIES OF 5 PERCENT AD VALOREM OR LESS, THE REDUCTION BY 60 PERCENT OF DUTIES ABOVE 5 PERCENT AD VALOREM, AND THE INCREASE (PRIMARILY FOR PURPOSES OF HARMONIZATION) OF THE DUTY RATES BY THE GREATER OF 50 PERCENT ABOVE THE 1934 RATES OR 20 PERCENT AD VALOREM ABOVE THE EXISTING RATES; AND

(2) THE REDUCTION, ELIMINATION OR HARMONIZATION OF NON-TARIFF BARRIERS (NTBS) TO TRADE IN BOTH GOODS AND SERVICES,

PROVIDED THE LEGISLATION NECESSARY TO IMPLEMENT ANY NON-TARIFF BARRIER AGREEMENTS IS APPROVED BY BOTH HOUSES OF CONGRESS.

TARIFF REDUCTIONS ARE TO BE STAGED OVER 10 YEARS, AT A RATE NOT TO EXCEED ANNUAL REDUCTIONS OF 3 PERCENT AD VALOREM OR ONE TENTH OF THE TOTAL REDUCTION, WHICHEVER IS GREATER. TARIFF REDUCTIONS OF 10 PERCENT OF AN EXISTING TARIFF OR LESS ARE NOT SUBJECT TO ANY STAGING REQUIREMENTS. TO BEST ASSURE THAT THE CONGRESS WILL VOTE ON THE MERITS OF ANY LEGISLATION DESIGNED TO IMPLEMENT NONTARIFF BARRIER AGREEMENTS, PROCEDURAL SAFEGUARDS GOVERNING CONSIDERATION OF SUCH LEGISLATION HAVE BEEN ADOPTED. IMPLEMENTING LEGISLATION IS TO BE DRAFTED AND SUBMITTED TO THE CONGRESS BY THE PRESIDENT (AFTER CONSULTATION WITH INTERESTED COMMITTEES AS TO THE MANNE OF SUBMISSION). THE LEGISLATION SUBMITTED MAY NOT BE AMENDED, IS SUBJECT TO LIMITS AS TO TIME AND MOTIONS WHICH MAY BE MADE DURING FLOOR DEBATE, AND IS SUBJECT TO A FINAL DEADLINE (60 DAYS, OR IN THE CASE OF IMPLEMENTING BILLS WHICH MUST, UNDER THE CONSTITUTION, ORIGINATE IN THE HOUSE, 75 DAYS).

3. NEGOTIATING OBJECTIVES - IN ADDITION TO THE BROADER STATEMENT OF PURPOSES CONTAINED IN SECTION 2, THE TRADE ACT IDENTIFIES SPECIFIC NEGOTIATING OBJECTIVES.

A. THE OVERALL GOAL OF NEGOTIATIONS IS TO OBTAIN  
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MORE OPEN AND EQUITABLE MARKET ACCESS AND TO ELIMINATE, REDUCE OR HARMONIZE DEVICES WHICH DISTORT TRADE OR COMMERCE. TO THE MAXIMUM EXTENT FEASIBLE NEGOTIATIONS ON AGRICULTURAL TRADE BARRIERS ARE TO BE IN CONJUNCTION WITH THOSE ON INDUSTRIAL TRADE BARRIERS.

B. PRINCIPAL NEGOTIATING OBJECTIVES ARE: (1) TO OBTAIN, TO THE MAXIMUM EXTENT FEASIBLE, COMPETITIVE OPPORTUNITIES

FOR APPROPRIATE MANUFACTURING PRODUCT SECTORS AND THE AGRICULTURAL SECTOR EQUIVALENT TO THOSE OFFERED BY THE UNITED STATES TO SIMILAR PRODUCTS OF FOREIGN COUNTRIES, AND, TO THE EXTENT CONSISTENT WITH U.S. ECONOMIC INTEREST, TO CONDUCT NEGOTIATIONS ON THE BASIS OF APPROPRIATE MANUFACTURING SECTORS; (II) TO OBTAIN INTERNATIONALLY AGREED SAFEGUARD PROCEDURES IN THE CONTEXT OF HARMONIZATION, REDUCTION, OR ELIMINATION OF TRADE BARRIERS AND (III) TO ENTER INTO AGREEMENTS ON ACCESS TO SUPPLIES OF IMPORTANT ARTICLES OF COMMERCE.

C. OTHER NEGOTIATING OBJECTIVES SPECIFIED ARE THE ENTRY INTO BILATERAL TRADE AGREEMENTS WHERE THE PRESIDENT DETERMINES SUCH AGREEMENTS WILL PROMOTE THE UNITED STATES ECONOMIC INTEREST MORE EFFECTIVELY THAN WOULD MULTILATERAL

AGREEMENTS, AND ENTRY INTO MUTUALLY BENEFICIAL TRADE AGREEMENTS WITH DEVELOPING COUNTRIES.

#### 4. OTHER AUTHORITIES

IN ADDITION TO THE BASIC NEGOTIATING AUTHORITIES, THE TRADE ACT CONTAINS OTHER IMPORTANT AUTHORITIES NECESSARY FOR THE EFFECTIVE ADMINISTRATION OF THE TRADE AGREEMENTS PROGRAM. THESE ARE:

A. BALANCE OF PAYMENTS AUTHORITY. THE PRESIDENT IS REQUIRED TO RAISE U.S. TRADE BARRIERS (BY THE IMPOSITION OF A SURCHARGE OF UP TO 15 PERCENT AD VALOREM OR THE IMPOSITION OF QUOTAS WHICH ALLOW ENTRY OF GOODS IN QUANTITIES NO LESS THAN THAT FOR THE MOST RECENT REPRESENTATIVE PERIOD) IN TIMES OF SERIOUS AND CONTINUING U.S. BALANCE OF PAYMENTS DEFICIT IF SUCH DEFICIT REQUIRES SPECIAL IMPORT MEASURES, AND IS AUTHORIZED TO LOWER BARRIERS (DUTY RE-

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DUCTIONS LIMITED TO 5 PERCENT AD VALOREM) DURING PERIODS OF LARGE AND PERSISTENT BALANCE OF TRADE SURPLUSES (ON A C.I.F. BASIS) OR TO PREVENT SIGNIFICANT APPRECIATION OF THE DOLLAR IN FOREIGN EXCHANGE MARKETS. BEFORE IMPOSING IMPORT RESTRICTIONS FOR BALANCE OF PAYMENTS PURPOSES, THE PRESIDENT MUST FIRST DETERMINE (1) THAT A FUNDAMENTAL BALANCE OF PAYMENTS PROBLEM EXISTS AND (2) THAT IMPORT RESTRICTIONS ARE NECESSARY TO DEAL WITH SUCH PROBLEMS. MOREOVER, IF THE PRESIDENT DETERMINES THAT THE IMPOSITION OF RESTRICTIONS FOR BALANCE OF PAYMENTS PURPOSES ARE REQUIRED UNDER THE LAW BUT WOULD BE CONTRARY TO THE NATIONAL INTEREST, HE NEED NOT RAISE BARRIERS, BUT MUST CONSULT WITH CONGRESS. ACTIONS TAKEN BY THE PRESIDENT FOR BALANCE OF PAYMENTS REASONS ARE LIMITED TO 150 DAYS DURATION, EXTENDABLE BY CONGRESS.

B. COMPENSATION AUTHORITY. THE PRESIDENT IS AUTHORIZED TO REDUCE DUTIES BY NO MORE THAN 30 PERCENT IN ORDER TO PAY OUR TRADING PARTNERS COMPENSATION OWED AS A RESULT OF U.S. IMPORT RELIEF ACTIONS. IN DETERMINING WHETHER TO GRANT COMPENSATION, THE PRESIDENT IS TO CONSIDER WHETHER A COUNTRY HAS VIOLATED TRADE AGREEMENTS BENEFITING THE U.S. AND, IF SO, WHETHER SUCH AUTHORITY HAS COMPENSATED THE U.S., OR THE U.S. HAS TAKEN OFFSETTING ACTION, FOR SUCH VIOLATION.

C. RESIDUAL NEGOTIATING AUTHORITIES. IN ORDER TO AUTHORIZE MINOR HOUSEKEEPING ADJUSTMENTS NECESSARY AFTER A MAJOR ROUND OF TRADE NEGOTIATIONS, THE PRESIDENT IS GRANTED, FOR TWO YEARS BEYOND THE BASIC FIVE YEAR NEGOTIATING AUTHORITY, AUTHORITY TO REDUCE IN EACH YEAR BY NO MORE THAN 20 PERCENT (AND SUBJECT TO THE OVERALL LIMITA-

TIONS OF THE TARIFF REDUCTION AUTHORITY) DUTIES ON NO MORE THAN 2 PERCENT OF TOTAL U.S. IMPORTS FOR SUCH YEAR.

D. TERMINATION AND WITHDRAWAL AUTHORITY. ALL TRADE AGREEMENTS UNDER THE TRADE ACT ARE TO BE SUBJECT TO TERMINATION AND WITHDRAWAL BY THE U.S. UPON TERMINATION OF OR WITHDRAWAL FROM AN AGREEMENT, THE PRESIDENT MAY IMPOSE OR RAISE DUTIES TO A RATE NOT HIGHER THAN 50 PERCENT ABOVE THE COLUMN 2 (STATUTORY) RATE OR 20 PERCENT AD UNCLASSIFIED

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VALOREM ABOVE THE COLUMN 1 RATE. WHENEVER ANY FOREIGN COUNTRY OR INSTRUMENTALITY WITHDRAWS OR SUSPENDS TRADE AGREEMENT OBLIGATIONS OF BENEFIT TO THE U.S. WITHOUT GRANTING ADEQUATE COMPENSATION, THE PRESIDENT MAY TAKE COMPENSATORY ACTION BY WITHDRAWING, SUSPENDING OR OTHERWISE MODIFYING THE APPLICATION OF TRADE AGREEMENT BENEFITS EXTENDED TO SUCH COUNTRY OR INSTRUMENTALITY.

E. RECIPROCAL NONDISCRIMINATORY TREATMENT. THE PRINCIPLE OF MOST FAVORED NATION TREATMENT IS REAFFIRMED. HOWEVER, THE ACT DOES REQUIRE THE PRESIDENT TO DETERMINE AT THE CONCLUSION OF THE FORTHCOMING MULTILATERAL NEGOTIATIONS WHETHER ANY MAJOR INDUSTRIALIZED COUNTRY FAILS TO MAKE CONCESSIONS IN SUCH NEGOTIATIONS AFFORDING COMPETITIVE OPPORTUNITIES TO U.S. PRODUCERS SUBSTANTIALLY EQUIVALENT TO THOSE COMPETITIVE OPPORTUNITIES AFFORDED TO PRODUCERS OF SUCH COUNTRY BY U.S. CONCESSIONS IN SUCH NEGOTIATIONS. IF THE PRESIDENT DETERMINES THAT ANY MAJOR INDUSTRIALIZED COUNTRY HAS FAILED TO MAKE SUCH CONCESSIONS, HE IS TO RECOMMEND TO THE CONGRESS LEGISLATION NECESSARY TO CORRECT THE BALANCE OF CONCESSIONS.

F. RESERVATION OF ARTICLES FROM NEGOTIATION. DUTIES

ON ARTICLES SUBJECT TO NATIONAL SECURITY OR IMPORT RELIEF MEASURES MAY NOT BE REDUCED UNDER THE NEGOTIATING AUTHORITIES OF THE BILL, NOR MAY ANY BARRIERS IMPOSED FOR IMPORT RELIEF OR NATIONAL SECURITY PURPOSES BE REDUCED. FURTHER, OTHER IMPORT BARRIERS MAY NOT BE REDUCED IF THEIR REDUCTION WOULD UNDERMINE THE NATIONAL SECURITY OR IMPORT RELIEF MEASURES. ARTICLES SUBJECT TO NATIONAL SECURITY OR IMPORT RELIEF MEASURES ALSO ARE INELIGIBLE FOR GENERALIZED TARIFF PREFERENCES.

5. REFORM OF THE INTERNATIONAL TRADING SYSTEM - THE PRESIDENT IS DIRECTED, AS SOON AS PRACTICABLE, TO TAKE SUCH ACTION AS MAY BE NECESSARY TO BRING TRADE AGREEMENTS (INCLUDING THE GATT) INTO CONFORMITY WITH THE PRINCIPLES OF A FAIR AND NONDISCRIMINATORY TRADING SYSTEM. TWELVE SPECIFIC OBJECTIVES INCLUDING ACCESS TO SUPPLIES, REVISION OF THE INTERNATIONAL SAFEGUARD MECHANISM, AGREEMENT ON THE USE OF SUBSIDIES, ETC.) ARE ENUMERATED. IF

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THE IMPLEMENTATION OF ANY SUCH AGREEMENTS WOULD CHANGE FEDERAL LAW AND SUCH AGREEMENTS ARE NOT IMPLEMENTED PURSUANT TO A PRIOR DELEGATION OF AUTHORITY, THEY MUST BE SUBMITTED TO THE CONGRESS FOR APPROVAL. IN ORDER TO BEST ASSURE A FINAL VOTE, ON THEIR MERITS, SUCH AGREEMENTS MAY BE SUBMITTED UNDER THE SAME EXPEDITED PROCEDURES AS THOSE PROVIDED FOR NONTARIFF BARRIER AGREEMENTS UNDER SECTION 102.

THE TRADE ACT PROVIDES, FOR THE FIRST TIME, FOR ANNUAL APPROPRIATIONS NECESSARY FOR U.S. PAYMENT OF ITS GATT EXPENSES.

6. INTERNATIONAL TRADE COMMISSION - THE NAME OF THE TARIFF COMMISSION IS CHANGED TO THE INTERNATIONAL TRADE COMMISSION. THE MAJOR STRUCTURAL CHANGES IN THE OPERATION OF THE COMMISSION ARE: THE TERMS OF THE COMMISSIONERS ARE EXTENDED TO NINE YEARS; THE CHAIRMANSHIP AND THE VICE CHAIRMANSHIP ARE TO ROTATE AMONG THE MEMBERS; AND THE COMMISSION IS TO BE INDEPENDENT OF THE EXECUTIVE BRANCH FOR BUDGET PURPOSES.

7. IMPORT RELIEF -

A. RELIEF FOR DOMESTIC INDUSTRY FROM INJURY FROM IMPORT COMPETITION HAS BEEN MADE MORE ACCESSABLE. UNDER PRIOR LAW, THE ELIGIBILITY CRITERIA FOR SUCH RELIEF OFTEN PROVED TOO STRICT. THE TRADE ACT MODIFIES PREVIOUS LAW BY (1) ELIMINATING ANY REQUIREMENT OF A CAUSAL LINK BETWEEN INCREASED IMPORTS AND TRADE AGREEMENT CONCESSIONS AND (2) REQUIRES ONLY THAT INCREASED IMPORTS BE A "SUBSTANTIAL" CAUSE INSTEAD OF A "MAJOR" CAUSE, AS WAS REQUIRED IN THE

PAST. UNDER PREVIOUS LAW, "MAJOR" CAUSE WAS DEFINED AS A CAUSE GREATER THAN ALL OTHER CAUSES; UNDER THE TRADE ACT "SUBSTANTIAL" IS DEFINED AS AN IMPORTANT CAUSE THAT IS NOT LESS THAN ANY OTHER CAUSE.

B. PROVISION IS ALSO MADE IN THE TRADE ACT FOR A FINDING OF INJURY TO A DOMESTIC INDUSTRY LOCATED IN A MAJOR GEOGRAPHIC AREA IF THE FOLLOWING CONDITIONS ARE MET: (1) PRODUCTION IN THE GEOGRAPHIC AREA CONSTITUTES A MAJOR PORTION OF PRODUCTION OF THE NATIONAL INDUSTRY; (2) THE PRODUCERS IN THE GEOGRAPHIC AREA SERVE PRIMARILY THE MARKETS OF SUCH AREA, AND (3) IMPORTS ARE CONCENTRATED IN SUCH

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GEOGRAPHIC AREA. LARGELY BECAUSE IMPORT RELIEF MAY BE GIVEN UNDER THE TRADE ACT ON THE BASIS OF INJURY TO INDUSTRY IN A GEOGRAPHICAL AREA, IMPORT RELIEF MAY BE IMPOSED ON EITHER A SELECTIVE OR NONDISCRIMINATORY BASIS. IN CASES WHERE A FINDING OF INJURY TO AN INDUSTRY IN A GEOGRAPHICAL AREA RESULTS IN THE IMPOSITION OF IMPORT RELIEF, IT WILL LIKELY BE PREFERABLE TO IMPOSE BARRIERS ONLY AGAINST IMPORTS FROM THE COUNTRY OR COUNTRIES CAUSING THE INJURY TO

THE INDUSTRY OF THE GEOGRAPHICAL AREA.

C. UPON AN AFFIRMATIVE DETERMINATION OF FINDING OF INJURY BY THE INTERNATIONAL TRADE COMMISSION, THE PRESIDENT MUST EITHER IMPOSE OR INCREASE DUTIES, PROCLAIM A TARIFF RATE QUOTA, IMPOSE OR INCREASE QUOTAS, OR NEGOTIATE AN ORDERLY MARKETING AGREEMENT (OR TAKE ANY COMBINATION OF THE ABOVE ACTIONS) UNLESS THE PRESIDENT DETERMINES THAT THE IMPOSITION OF ANY SUCH RELIEF WOULD BE CONTRARY TO THE U.S. ECONOMIC INTEREST. IF THE PRESIDENT EITHER TAKES NO ACTION OR TAKES ACTION WHICH DIFFERS FROM THAT RECOMMENDED BY THE INTERNATIONAL TRADE COMMISSION, THE CONGRESS MAY BY CONCURRENT RESOLUTION, PASSED BY MAJORITY VOTE OF BOTH HOUSES, SUBSTITUTE THE RELIEF RECOMMENDED BY THE INTERNATIONAL TRADE COMMISSION FOR THAT IMPOSED BY THE PRESIDENT.

D. THE TRADE ACT, FOR THE FIRST TIME, INTRODUCES THE POSSIBILITY OF AN INTERNATIONAL TRADE (TARIFF) COMMISSION FINDING THAT ADJUSTMENT ASSISTANCE OFFERS A VIABLE ALTERNATIVE TO IMPORT RELIEF FOR THE ADVERSELY AFFECTED INDUSTRY. WHERE THE COMMISSION FINDS THAT ADJUSTMENT ASSISTANCE "CAN EFFECTIVELY REMEDY THE INJURY TO AN INDUSTRY", THE COMMISSION MAY RECOMMEND THE PROVISION OF SUCH ASSISTANCE. IMPORT RELIEF IS TO BE TEMPORARY IN NATURE. IT MAY BE GRANTED FOR A FIVE-YEAR PERIOD, WITH ONE EXTENSION FOR THREE YEARS, IF NECESSARY, BUT IS, TO THE EXTENT FEASIBLE, TO BE PHASED DOWN AFTER THE FIRST

THREE YEARS.

8. ADJUSTMENT ASSISTANCE -

A. WORKERS. THE TRADE ACT WILL MAKE ADJUSTMENT  
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ASSISTANCE FOR WORKERS DISPLACED BY INCREASED IMPORTS MORE EFFECTIVE AND MORE ACCESSABLE THAN UNDER PREVIOUS LAW. THE ACCESS CRITERIA HAVE BEEN SIGNIFICANTLY LIBERALIZED, THE LEVEL OF BENEFITS HAS BEEN INCREASED (ELIGIBLE WORKERS ARE TO RECEIVE BENEFITS EQUAL TO 70 PERCENT OF EACH WORKER'S AVERAGE WEEKLY EARNINGS PRIOR TO THE TIME OF UNEMPLOYMENT, SUBJECT TO A CEILING OF 100 PERCENT OF THE NATIONAL AVERAGE WEEKLY WAGE IN MANUFACTURING, FOR A PERIOD OF 52 WEEKS GENERALLY, AND IN THE CASE OF OLDER WORKERS AND WORKERS IN TRAINING FOR A PERIOD OF UP TO 78 WEEKS) AND SPECIAL PROVISIONS FOR JOB SEARCH, TRAINING AND RELOCATION HAVE BEEN INCLUDED.

B. FIRMS. AS WITH WORKER ADJUSTMENT ASSISTANCE FOR FIRMS UNDER THE TRADE ACT WILL BE MORE EFFECTIVE AND MORE READILY AVAILABLE. THE SECRETARY OF COMMERCE IS AUTHORIZED TO GUARANTEE LOANS (UP TO 3 MILLION DOLLARS PER FIRM), TO

MAKE DIRECT LOANS (UP TO 1 MILLION DOLLARS PER FIRM) AND PROVIDE TECHNICAL ASSISTANCE.

C. COMMUNITIES. FOR THE FIRST TIME, THE TRADE ACT INTRODUCES A CONCEPT OF TRADE ADJUSTMENT ASSISTANCE TO COMMUNITIES ADVERSELY AFFECTED BY IMPORTS. THE COMMUNITY ADJUSTMENT ASSISTANCE PROVISIONS ARE DIRECTED TO ATTRACT NEW INVESTMENT TO TRADE IMPACTED AREAS. ONE HUNDRED MILLION DOLLARS IS AUTHORIZED FOR LOANS AND DIRECT GRANTS DURING THE FIRST YEAR TO FIRMS LOCATING IN THE ADVERSELY AFFECTED COMMUNITY; UP TO 1 BILLION DOLLARS IN OUTSTANDING LOANS COULD BE GUARANTEED AT ANY ONE TIME.

9. RELIEF FROM UNFAIR TRADE PRACTICES-THE TRADE ACT GIVES CONSIDERABLY MORE FLEXIBILITY TO THE PRESIDENT IN FASHIONING RESPONSES TO UNJUSTIFIABLE OR UNREASONABLE FOREIGN TRADE PRACTICES, AND TIGHTENS PROVISIONS OF EXISTING U.S. LAWS AGAINST FOREIGN DUMPING, EXPORT SUBSIDIZATION, AND UNFAIR PRACTICES IN CONNECTION WITH IMPORTS.

A. RETALIATION. THE PRESIDENT IS AUTHORIZED TO IMPOSE DUTIES OR OTHER IMPORT RESTRICTIONS IN RESPONSE TO UNJUSTIFIABLE OR UNREASONABLE FOREIGN TRADE PRACTICES WHICH ADVERSELY AFFECT UNITED STATES COMMERCE. HE MAY RETALIATE ON  
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EITHER A NONDISCRIMINATORY OR A SELECTIVE BASIS, PROVIDED THAT, IF THE PRESIDENT RETALIATES ON A NONDISCRIMINATORY BASIS, CONGRESS MAY, BY CONCURRENT RESOLUTION, LIMIT THE EFFECT OF ANY RETALIATION TO THE OFFENDING COUNTRY.

B. ANTIDUMPING. TRADE ACT CODIFIES CERTAIN PROCEDURES IN ADMINISTRATION OF ANTI-DUMPING LAW WHICH HAVE BEEN IN EFFECT FOR TWO YEARS; NAMELY, THAT INITIAL DETERMINATION MUST BE MADE WITHIN SIX MONTHS (OR NINE MONTHS FOR COMPLICATED CASES) AFTER PUBLICATION OF ANTIDUMPING PROCEEDING. THE ACT ALSO INCLUDES LANGUAGE PROVIDING FOR CONSIDERATION OF BOTH INJURY AND DUMPING WHEN INVESTIGATION INITIATED. IF THE SECRETARY OF TREASURY CONCLUDES THERE IS SUBSTANTIAL DOUBT AS TO INJURY, HE REFERS QUESTION TO THE INTERNATIONAL TRADE COMMISSION. IF THE COMMISSION MAKES A DETERMINATION THAT THERE IS NO LIKELIHOOD OF INJURY, THE DUMPING INVESTIGATION IS TERMINATED. CERTAIN OTHER PROCEDURAL AND TECHNICAL CHANGES HAVE BEEN MADE. THE TRADE ACT PROVIDES UNITED STATES MANUFACTURERS, PRODUCERS, OR WHOLESALESALE AN AUTOMATIC RIGHT TO APPEAR AT ANTIDUMPING HEARINGS AND PROVIDES FOR JUDICIAL REVIEW OF NEGATIVE TREASURY FINDINGS. IN ADDITION, A NEW CONCEPT HAS BEEN INTRODUCED TO THE ANTIDUMPING DETERMINATIONS AGAINST MULTINATIONAL CORPORATIONS WHICH OPERATE IN SEVERAL FOREIGN COUNTRIES AND WHICH SUPPORT LOW PRICED EXPORTS TO THE UNITED STATES THROUGH HIGHER PRICED SALES BY SUBSIDIARIES LOCATED IN OTHER

FOREIGN COUNTRIES.

C. COUNTERVAILING DUTIES. TIME LIMITS FOR COUNTERVAILING DUTY DETERMINATIONS (SIX MONTHS FOR PRELIMINARY DETERMINATIONS, ONE YEAR FOR A FINAL DETERMINATION) AND EXPRESS PROVISION FOR JUDICIAL REVIEW OF COUNTERVAILING DUTY DETERMINATIONS HAVE BEEN ADDED TO EXISTING LAW. FURTHER, THE APPLICATION OF THE COUNTERVAILING DUTY LAW HAS BEEN EXTENDED TO DUTY FREE IMPORTS, PROVIDED A FINDING OF INJURY IS MADE BY THE TARIFF COMMISSION. A FINDING OF INJURY IN CONNECTION WITH THE IMPOSITION OF COUNTERVAILING DUTIES ON DUTY FREE IMPORTS IS NECESSARY BECAUSE OF U.S. INTERNATIONAL OBLIGATIONS (I.E. THE GATT).

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IN ORDER TO ENCOURAGE SUCCESSFUL NEGOTIATION OF NTB AGREEMENTS THE SECRETARY OF THE TREASURY IS AUTHORIZED TO SUSPEND THE APPLICATION OF COUNTERVAILING DUTIES DURING



THE FOUR-YEAR PERIOD ENDING JANUARY 3, 1979, PROVIDING HE MAKES THE FOLLOWING THREE DETERMINATIONS:

(1) THAT ADEQUATE STEPS HAVE BEEN TAKEN TO REDUCE SUBSTANTIALLY OR ELIMINATE THE ADVERSE EFFECT OF THE BOUNTY OR GRANT ON DOMESTIC PRODUCERS

(2) THAT THERE IS A REASONABLE PROSPECT THAT TRADE AGREEMENTS ON NONTARIFF BARRIERS WILL BE ENTERED INTO UNDER SECTION 102 OF THE ACT; AND

(3) THAT THE IMPOSITION OF COUNTERVAILING DUTIES WOULD BE LIKELY TO SERIOUSLY JEOPARDIZE THE SATISFACTORY COMPLETION OF SUCH NEGOTIATIONS.

D. SECTION 337 OF THE TARIFF ACT OF 1930. SECTION 337 OF THE TARIFF ACT OF 1930 (PROVIDING FOR THE EXCLUSION OF ARTICLES THE IMPORT OF WHICH INVOLVE UNFAIR TRADE PRACTICES, I.E. UNITED STATES PATENT INFRINGEMENT) HAS BEEN SUBSTANTIALLY MODIFIED TO AUTHORIZE FINAL DETERMINATIONS BY THE INTERNATIONAL TRADE COMMISSION, SUBJECT TO AN OVERRIDE BY THE PRESIDENT FOR POLICY REASONS, WITHIN 60 DAYS. UNDER PREVIOUS LAW THE INTERNATIONAL TRADE (TARIFF) COMMISSION ADVISED THE PRESIDENT AS TO VIOLATIONS OF SECTION 337. UPON RECEIVING SUCH ADVICE, THE PRESIDENT DETERMINED WHETHER TO EXCLUDE ANY ARTICLE FROM ENTRY. THE INTERNATIONAL TRADE COMMISSION MUST MAKE ITS DETERMINATION WITHIN ONE YEAR (18 MONTHS IN COMPLICATED CASES), MUST CONSULT WITH APPROPRIATE GOVERNMENT AGENCIES, MAY ISSUE CEASE AND DESIST ORDERS AS ALTERNATIVES TO EXCLUSIONS, AND MAY PRESCRIBE A REASONABLE BOND UNDER WHICH ARTICLES SUBJECT TO EXCLUSION ORDERS MAY ENTER. IN CONNECTION WITH SECTION 337 CASES, THE COMMISSION IS TO

CONSIDER ALL LEGAL AND EQUITABLE DEFENSES.

10. NONDISCRIMINATORY TARIFF TREATMENT OF IMPORTS FROM NON-MARKET ECONOMY COUNTRIES

A. THE EXTENSION OF NONDISCRIMINATORY (MOST-FAVORED-NATION) TARIFF TREATMENT TO U.S. IMPORTS FROM NON-MARKET UNCLASSIFIED

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ECONOMY COUNTRIES NOT NOW RECEIVING SUCH TREATMENT IS AUTHORIZED BY THE TRADE ACT, BUT ONLY IF THE PRESIDENT FINDS THAT SUCH COUNTRIES ARE NOT: (1) DENYING THEIR CITIZENS THE RIGHT OR OPPORTUNITY TO EMIGRATE (2) IMPOSING MORE THAN A NOMINAL TAX ON EMIGRATION OR ON THE VISAS OR OTHER DOCUMENTS REQUIRED FOR EMIGRATION, FOR ANY PURPOSE OR CAUSE WHATSOEVER, AND (3) IMPOSING MORE THAN A NOMINAL TAX, LEVY, FINE, FEE OR OTHER CHARGE ON ANY CITIZEN AS A CONSEQUENCE OF THE DESIRE OF SUCH CITIZEN TO EMIGRATE TO THE COUNTRY OF HIS CHOICE. THE EXTENSION OF U.S.

GOVERNMENT CREDITS AND INVESTMENT GUARANTEES TO SUCH COUNTRIES IS ALSO CONTINGENT UPON SUCH FINDINGS BY THE PRESIDENT. THESE PROVISIONS MAY BE WAIVED FOR AN INITIAL PERIOD OF 18 MONTHS AND EXTENDED FOR ONE YEAR PERIODS THEREAFTER, IF THE PRESIDENT REPORTS TO THE CONGRESS THAT HE HAS DETERMINED THAT SUCH A WAIVER WILL SUBSTANTIALLY PROMOTE THEIR INTENDED EFFECT AND REPORTS ALSO TO THE CONGRESS THAT HE HAS RECEIVED ASSURANCES THAT THE EMIGRATION PRACTICES OF THE COUNTRY CONCERNED WILL LEAD SUBSTANTIALLY TO THE ACHIEVEMENT OF OBJECTIVES OF THIS SECTION OF THE ACT. EXTENSION OF THE WAIVER MUST BE INITIALLY APPROVED BY THE CONGRESS BY AFFIRMATIVE ACTION (ALTHOUGH IF CONGRESS DOES NOT ACT WITHIN A SPECIFIED PERIOD THE WAIVER WILL CONTINUE IN EFFECT UNLESS DISAPPROVED) AND THEREAFTER IS SUBJECT TO A ONE-HOUSE CONGRESSIONAL VETO. FURTHER, THE PRESIDENT IS AUTHORIZED TO WITHHOLD MFN TREATMENT AND U.S. CREDITS FROM COUNTRIES NOT NOW RECEIVING MFN TREATMENT IF HE DETERMINES SUCH COUNTRIES ARE NOT COOPERATING IN THE ACCOUNTING OF U.S. PERSONNEL MISSING IN SOUTHEAST ASIA.

B. EXTENSION OF NONDISCRIMINATORY TREATMENT MUST BE PURSUANT TO BILATERAL COMMERCIAL AGREEMENTS WHICH, IF ENTERED INTO SUBSEQUENT TO ENACTMENT OF THE BILL, MUST BE APPROVED BY BOTH HOUSES OF CONGRESS. (IF ENTERED INTO BEFORE ENACTMENT, THE AGREEMENT MAY ENTER INTO FORCE AND THE EXTENSION OF MFN WILL GO INTO EFFECT UNLESS THE AGREEMENT IS DISAPPROVED BY EITHER HOUSE OF CONGRESS.) THE ACT SPECIFIES CERTAIN PROVISIONS (SAFEGUARD PROCEDURES, NATIONAL SECURITY RESERVATIONS, PROVISION FOR THE PROTECTION OF PATENTS, TRADEMARKS, COPYRIGHTS, ETC.) WHICH UNCLASSIFIED

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MUST BE INCLUDED IN AGREEMENTS WITH NON-MARKET ECONOMY COUNTRIES.

C. RELIEF FROM MARKET DISRUPTION CAUSED BY IMPORTS FROM COMMUNIST COUNTRIES IS PROVIDED FOR IF A "MARKET DISRUPTION" TEST IS MET. THIS TEST IS EASIER TO MEET THAN THE STANDARD FOR TRIGGERING ESCAPE CLAUSE ACTIONS, APPLICABLE TO OTHER COUNTRIES IN SECTION 201. MOREOVER, IF THE PRESIDENT DETERMINES THAT THERE IS REASON TO BELIEVE THAT MARKET DISRUPTION EXISTS AND THAT EMERGENCY ACTION IS NEEDED, HE MAY EXTEND IMMEDIATE RELIEF PENDING INTERNATIONAL TRADE COMMISSION INVESTIGATION OF AND FINDINGS ON MARKET DISRUPTION.

D. ANY BILATERAL AGREEMENT UNDER TITLE IV WITH CZECHOSLOVAKIA MUST INCLUDE RENEGOTIATION OF THE SETTLEMENT FOR PAYMENT BY CZECHOSLOVAKIA OF AMOUNTS OWED U.S. CITIZENS AND NATIONALS. AN EAST-WEST TRADE BOARD IS ESTAB-

LISHED TO MONITOR EAST-WEST TRADE. THE BOARD IS TO REPORT PERIODICALLY TO CONGRESS.

11. GENERALIZED SYSTEM OF PREFERENCES - TITLE V OF THE TRADE ACT AUTHORIZES THE PRESIDENT TO EXTEND DUTY-FREE TREATMENT TO CERTAIN ELIGIBLE PRODUCTS IMPORTED DIRECTLY FROM BENEFICIARY DEVELOPING COUNTRIES. THE AUTHORITY TO EXTEND PREFERENTIAL TARIFF TREATMENT IS LIMITED TO 10 YEARS (WITH PROVISIONS FOR A REPORT TO, AND REVIEW BY, THE CONGRESS AFTER FIVE YEARS) AND IS DESIGNED TO PROMOTE ECONOMIC DEVELOPMENT THROUGH EXPANDED TRADE OPPORTUNITIES. HOWEVER, BEFORE EXTENDING PREFERENCES, THE PRESIDENT MUST SUBMIT FOR INTERNATIONAL TRADE COMMISSION REVIEW A LIST OF ARTICLES ELIGIBLE FOR DUTY-FREE ENTRY AND MUST PROVIDE FOR PUBLIC HEARINGS. BOTH PROCEDURES ARE PRIMARILY DESIGNED TO GAUGE THE EFFECT OF PREFERENCES ON DOMESTIC PRODUCERS AND SO IDENTIFY IMPORT SENSITIVE PRODUCTS. THE FOLLOWING LIMITATIONS ON GENERALIZED PREFERENCES HAVE BEEN PRESCRIBED BY THE CONGRESS:

A. DESIGNATION OF BENEFICIARY DEVELOPING COUNTRIES: IN ADDITION TO A LIST OF DEVELOPED COUNTRIES WHICH ARE NOT ELIGIBLE FOR PREFERENCES, PREFERENCES ARE NOT TO BE GRANTED TO:

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(1) COMMUNIST COUNTRIES UNLESS THE PRODUCTS OF SUCH COUNTRY ARE RECEIVING NONDISCRIMINATORY TARIFF TREATMENT, SUCH COUNTRY IS A CONTRACTING PARTY TO THE GATT AND A MEMBER OF THE IMF, AND SUCH COUNTRY IS NOT "DOMINATED OR CONTROLLED BY INTERNATIONAL COMMUNISM";

(2) OPEC COUNTRIES OR OTHER COUNTRIES PARTY TO ANY OTHER ARRANGEMENT IF SUCH COUNTRIES PARTICIPATE IN ANY ACTION PURSUANT TO SUCH ARRANGEMENT, THE EFFECT OF WHICH IS TO WITHHOLD SUPPLIES OF VITAL COMMODITIES FROM INTERNATIONAL TRADE OR TO RAISE THE PRICE OF SUCH COMMODITIES TO AN UNREASONABLE LEVEL, AND THEREBY CAUSE SERIOUS

DISRUPTION OF THE WORLD ECONOMY (UNLESS SUCH COUNTRIES ARE PARTY TO AN AGREEMENT TO WHICH THE U.S. IS ALSO A PARTY AND WHICH ASSURES THE UNITED STATES OF FAIR AND EQUITABLE ACCESS TO SUPPLIES AT REASONABLE PRICES);

(3) COUNTRIES WHICH GRANT REVERSE PREFERENCES TO OTHER DEVELOPED COUNTRIES WITH SIGNIFICANT ADVERSE EFFECTS ON U.S. COMMERCE, UNLESS THE PREFERENCES OR THEIR ADVERSE EFFECTS ARE TO BE ELIMINATED BY JAN. 1, 1976;

(4) COUNTRIES WHICH HAVE NATIONALIZED PROPERTY OF U.S. CITIZENS OR BUSINESSES WITHOUT PROMPT, ADEQUATE AND

EFFECTIVE COMPENSATION, NEGOTIATION OR ARBITRATION;

(5) COUNTRIES WHICH DO NOT TAKE ADEQUATE STEPS TO PREVENT ILLEGAL DRUGS PRODUCED IN, PROCESSED IN, OR TRANSPORTED FROM THEIR BORDERS FROM ENTERING THE UNITED STATES; AND

(6) COUNTRIES WHICH DO NOT ACT IN GOOD FAITH IN RECOGNIZING OR ENFORCING ARBITRAL AWARDS IN FAVOR OF U.S. CITIZENS OR BUSINESSES.

B. THE PRESIDENT MAY WAIVE FOR ANY COUNTRY THE EXCLUSIONS BASED ON NATIONALIZATIONS, DRUG TRAFFIC, AND ARBITRAL AWARDS FOR REASONS OF U.S. NATIONAL ECONOMIC INTEREST.

C. ELIGIBLE ARTICLES: THE PRESIDENT MAY NOT DESIGNATE UNCLASSIFIED

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AS ELIGIBLE ARTICLES FOR PURPOSES OF PREFERENCES - TEXTILE AND APPAREL ARTICLES WHICH ARE SUBJECT TO TEXTILE AGREEMENTS, WATCHES, IMPORT SENSITIVE ELECTRONIC ARTICLES, IMPORT SENSITIVE STEEL ARTICLES, SPECIFIED CATEGORIES OF FOOTWEAR ARTICLES, IMPORT SENSITIVE SEMI-MANUFACTURED AND MANUFACTURED GLASS PRODUCTS; AND ANY OTHER ARTICLE WHICH THE PRESIDENT DETERMINES TO BE IMPORT SENSITIVE IN THE CONTEXT OF GENERALIZED PREFERENCES.

D. RULE OF ORIGIN: TO RECEIVE PREFERENTIAL TREATMENT, AN ELIGIBLE ARTICLE MUST BE IMPORTED DIRECTLY FROM THE BENEFICIARY DEVELOPING COUNTRY, AND THE VALUE-ADDED IN THE DEVELOPING COUNTRY MUST BE AT LEAST 35 PERCENT, IN THE CASE OF INDIVIDUAL BENEFICIARY COUNTRY, OR 50 PERCENT IN THE CASE OF ASSOCIATIONS OF COUNTRIES WHICH, FOR PURPOSES OF GENERALIZED PREFERENCES, ARE TREATED AS ONE COUNTRY.

E. COMPETITIVE NEED LIMITATIONS: IMPORTS OF AN ARTICLE FROM ANY ONE COUNTRY (OR GROUP OF COUNTRIES IF THE GROUP IS TREATED AS ONE COUNTRY FOR PURPOSES OF GENERALIZED PREFERENCES) ARE LIMITED TO -

(1) 25 MILLION DOLLARS (WITH THIS AMOUNT TO ESCALATE IN SUBSEQUENT YEARS IN PROPORTION TO CHANGES IN U.S. GNP COMPARED WITH THE BASE YEAR 1974) AND/OR

(2) 50 PERCENT OF TOTAL U.S. IMPORTS OF THE ARTICLE (PROVIDED THAT THE 50 PERCENT CEILING DOES NOT APPLY TO ARTICLES FOR WHICH NO LIKE OR DIRECTLY COMPETITIVE ARTICLE IS PRODUCED IN THE UNITED STATES).

12. GENERAL PROVISIONS - IN ADDITION TO TECHNICAL

"HOUSEKEEPING" PROVISIONS OF TITLE VI OF THE BILL (I.E. REPEAL OF EARLIER LAWS ETC.), THERE ARE PROVISIONS FOR -

(1) ANNUAL REPORT BY THE PRESIDENT TO THE CONGRESS ON COUNTRIES WHICH ARE AIDING THE ENTRY OF ILLEGAL DRUGS INTO THE UNITED STATES;

(2) EXONERATION FROM ANY LIABILITY FOR PARTICIPATION IN THE VOLUNTARY RESTRAINT AGREEMENT NEGOTIATED IN CONNECTION WITH STEEL EXPORTS TO THE UNITED STATES;  
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(3) THE GATHERING AND REPORTING OF CERTAIN STATISTICAL DATA ON IMPORTS AND EXPORTS;

(4) AN INCREASE IN THE VALUE OF DUTY-FREE GIFTS WHICH MAY BE SENT FROM CERTAIN INSULAR POSSESSIONS;

(5) AN EXTENSION BY THREE YEARS OF THE PERIOD FOR REVIEWING PROTESTS AGAINST THE U.S. IMPORT SURCHARGE OF AUGUST 17, 1971;

(6) AUTHORIZATION TO NEGOTIATE A FREE TRADE AREA BETWEEN THE UNITED STATES AND CANADA; AND

(7) LIMITATION ON THE LOANS, GUARANTEES, OR INSURANCE WHICH ANY U.S. GOVERNMENT AGENCY (EXCEPT THE COMMODITY CREDIT CORPORATION) MAY APPROVE IN CONNECTION WITH EXPORTS TO THE SOVIET UNION TO AN AGGREGATE AMOUNT OF 300 MILLION DOLLARS. THIS AMOUNT MAY, HOWEVER, BE EXCEEDED WITH CONGRESSIONAL APPROVAL. KISSINGER

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